

Taxation—Shares of Stock—Banks and Banking—National Banks—State Banks—Exemptions.

Shares of stock of national banks are taxable without deducting tax exempt securities held by the bank.

Shares of stock of a state bank are not taxable.

State Board of Equalization,
Capitol Building,
Helena, Montana.

April 25, 1925.

Gentlemen :

You have requested my opinion on the following questions :

"1. In determining the value of shares of stock of national banks in this state for assessment purposes, are government bonds and securities to be deducted from such full and true value, and the shares of stock assessed to the individual stockholders less the value of real estate and all government securities?"

"2. Under present laws can individual stockholders of state banks be assessed for the full value of their stock, including government securities owned by such bank?"

Your first question has been answered by the supreme court of the United States in the case of Des Moines National Bank vs. Fairweather, 68 L. Ed. 191. In that case the court said :

"National banks shares are taxable—made so by the congressional assent. That much or little of the bank's assets consists of tax-exempt securities of the United States does not affect the taxability of the shares,—they being distinct from the corporate assets. The state taxes such shares without regard to the exempt government securities held by the bank."

As pointed out in that case, the tax is upon the shares of stock and not upon the corporate assets. Hence it follows that tax exempt securities may not be deducted in ascertaining the value of shares of stock in a national bank. The value of the real estate should be deducted. (Section 1999 R. C. M. 1921.)

Your second question is answered by the provisions of section 2067, R. C. M. 1921, which provides an exclusive method of taxing state banks. The tax there provided for is a tax upon the assets of the bank and when that is taxed the shares of stock may not be. (Section 17, article XII of our constitution.)

It is, therefore, my opinion that under present laws the stockholders of a state bank may not be assessed upon their shares of stock.

Very truly yours,

L. A. FOOT,
Attorney General.